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Fw: The Morning Headlines from InsideEPA.com -- February 5, 2013

#### Daily News

#### Environmentalists Seek Zero-Discharge Limit In ELG, Worrying Power Sector

Posted: February 4, 2013

Environmentalists are calling on EPA to adopt a strict, zero-discharge limit in its pending effluent limitation guidelines (ELGs) for new steam- and coal-fired power plants and at existing plants where it is feasible, saying that the Clean Water Act (CWA) calls for such a standard and the technology exists to comply.

But an industry source says retrofitting existing plants to install such technology would be cost prohibitive for utilities. "The CWA requires that EPA consider a whole lot of factors" when setting an ELG, "but it's got to be proven technology, they just can't go pie in the sky. Therein lies a discussion that EPA will have to have," the source says.

The emerging debate over the stringency of EPA's upcoming regulation, the first update to the rules since 1982, comes as the agency is moving to issue its long-awaited proposed rule by April 19, according to the terms of an agreement with environmentalists. EPA submitted a draft version of the proposal to the White House Office of Management & Budget (OMB) for review Jan. 15.

A source familiar with the issue says environmentalists are planning to meet in the coming weeks with OMB and EPA to "to emphasize . . . that this is a real problem, this has environmental and public health consequences, there are real folks that are impacted, there are technologies available that other plants are already using and that the CWA requires."

Among other things, the rule is expected to address heightened concern over the toxicity of coal ash and other combustion residuals, as well as increased toxicity of power plant wastes stemming from control technologies that have been required to control mercury, sulfur and other harmful air emissions. Since such emissions control technologies were not widespread when the ELG was last revised in 1982, the current ELG rule does not cover the discharges.

Environmentalists in 2010 sued EPA to force it to release the rule, a case that resulted in the court ordered deadline. Industry, however, has appealed the order entering the settlement, arguing that the current time line rushes EPA, which could result in an overly stringent and flawed rule.

ELGs are technology-based limits that represent the greatest pollutant reductions that

are economically achievable for an industry sector. EPA has considered several technologies that would ensure zero-discharge limits. According to a February 2012 document prepared for tribal consultation on the revised ELG, EPA said it was weighing technologies that would ensure no discharges of waste from the coal combustion process --in particular remains from the flue gas desulfurization process, bottom ash and fly ash, noting that the technology for dry ash transport is available.

For those waste streams, the technologies would then likely require capture of dry wastes and their treatment and disposal.

Environmentalists, who have long sought to curtail wet coal ash disposal, have called for a zero-discharge limit in a new ELG, seeing it as a faster way to regulate the practice than long-stalled EPA coal ash rules being developed under the Resource Conservation & Recovery Act (RCRA).

But environmentalists say they do not believe CWA limits alone are sufficient because they will not address transport, handling and storage requirements that can be regulated under RCRA hazardous waste provisions.

#### Merrimack Station

Even before EPA proposes a revised ELG, environmentalists have been advocating for zero-discharge technologies. For example, in comments on a draft national pollutant discharge elimination system (NPDES) permit for the Merrimack Station power plant in Bow, NH, a handful of environmental groups lead by Earthjustice urged EPA to prohibit the plant from discharging mercury.

"It is essential that EPA finalize limits for all discharged pollutants . . . that genuinely reflect maximum reductions that state-of-the-art pollution control technology can achieve. Further . . . it is incumbent on EPA to require the Public Service Company of New Hampshire to achieve zero liquid discharge as the company itself has determined is economically achievable."

While they have advocated for zero-discharge limits, the source familiar with the issue says that there is broad recognition from environmental groups that any standard is an improvement over the current lack of rules governing the waste.

"Whenever possible we would want a waste stream eliminated," the source says.

"Obviously no wastewater pollution is better than some, but what we are dealing with in this particular rule is there is nothing and the power plant industry is the second largest discharge of toxics." A requirement for treatment technologies at all "would definitely be a major improvement and would be much more protective," the source adds.

The source says environmentalists are waiting to see what EPA's analysis is over the question of how technical and feasible -- a requirement of the CWA -- the treatment technologies are for the range of power plants given that will determine how much treatment the agency will require.

"Given the permit battles we've been in and what we've looked at, that zero-discharge limit is required under the [CWA], but we haven't seen EPA's analysis to form what is the appropriate standard," the source says. "But what we know is that power plants are already using these technologies, which to us indicates that it's feasible and economical," at least for new plants.

And if EPA chooses not to do a zero-discharge standard, the agency needs to quickly finalize its pending RCRA coal ash rule, though the agency says it will not likely be complete until at least 2014 if not later.

"You really need minimum safeguards for both discharge and disposal," the source says. "You do need both, if you are just using these evaporation technologies or dry ash handling and just dumping that in a land fill that doesn't have liners . . . you are just dumping it in the environment in a different way."

### Reasonable Limits

Meanwhile, industry is concerned that EPA will seek to set overly stringent standards that will be an economic burden on utilities and may not be achievable. "In broad-brush terms, the lens we are going to be looking through when we are looking at details of the rulemaking . . . [is that] any ELG needs to set reasonable limits that are achievable by a broad range of the plants effected by affordable and reasonable technology," says the industry source.

While the source acknowledges that the technologies looked at by EPA are all available, they will require in many cases retrofitting plants, which could reduce effectiveness and come at a great cost.

"I don't think they are talking about anything that is not technologically achievable" but the question is, "can it be appropriately retrofitted and is it giving you the benefit that you hope it's giving you," the source says. "In practice everything in a plant needs to be optimized, it's not just a plug-and-play technology," there is complex chemistry involved. "It's a tricky thing to do."

What's more, the source adds, "everything is more expensive to retrofit rather than building a new facility." The cost estimates laid out by EPA in its presentations last year are already far too low, the source says, although it's unclear what a more accurate estimate would be.

And even then, the new technologies might not yield the desired results. "You can ask a vendor of a tech can it do something at x efficiency at y costs, in a perfect world where everything is working, absolutely . . . in reality, as we know from our own lives, things tend not to work perfectly."

As a result of those concerns, industry will be closely reviewing the proposed ELG to assess whether the limits are based on affordable and feasible technology, if EPA

properly characterized the individual waste streams and volumes, if the agency took into account common practice on management of waste, if the rule includes comprehensive time frames and if it addresses categorization of plants to ensure rules are tailored to specific classifications of facilities. -- Jenny Hopkinson (jhopkinson@iwpnews.com This e-mail address is being protected from spambots. You need JavaScript enabled to view it )

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February 5, 2013

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EPA's upcoming effluent limitation guidelines (ELG) for coal- and steam-fired power plants, which is due for release this spring, is likely to require installation of technologies to reduce increased discharges of key metals due to new emissions control technologies required by recent agency air rules -- though given the associated costs it is unclear to what level the agency will require such controls.



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